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EXAMINER
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SURVILLO, OLEG

ART UNIT	PAPER NUMBER
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2442

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/528,628	<b>Applicant(s)</b> REME, JEAN-MARC	
	<b>Examiner</b> OLEG SURVILLO	<b>Art Unit</b> 2442	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission dated December 15, 2008 has been entered.

### ***Response to Amendment***

2. Claims 1-7 and 9-16 remain pending in the application. Claims 1, 4, 5, 9, 10, and 12 are currently amended. Claim 8 has been canceled. No new claims are added.

### ***Response to Arguments***

3. With regard to the applicant's remarks dated November 25, 2008:  
applicant's amendment to correct minor informalities in the specification has been entered.

Regarding objection to the specification under 37 CFR 1.75(d)(1), applicant's arguments have been fully considered, but they are not persuasive. Therefore, the objection is maintained, as discussed fully below.

Regarding the rejection of claims 1-6 and 9-14 under 35 U.S.C. 112, first paragraph, applicant's arguments have been fully considered but they are not

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persuasive. Therefore the rejection is maintained. In attempt to provide support in the original disclosure for the previously added subject matter, applicant relies on page 3 lines 11-14 and 26-32, Table 1, page 4 lines 4-11 and 19-21 of the specification, as filed. However, none of the cited portions of the specification can be seen to discuss *"selecting one of said connections"* or *"last random access point is correlated with an access point"* or *"connection determined based on an available bandwidth associated with said selected terminal"*. In particular, neither cited portions of the specification nor any other portions of the original disclosure recite selecting a terminal or selecting a connection. Specification briefly mentions that any connection available to the user can be utilized to carry out the streaming session. However, there is no mention of what constitutes selecting one of said connections available to the user, as currently claimed. Thus, the original disclosure fails to provide an antecedent basis for the step of selecting a connection or selecting a terminal. Applicant is advised to amend the claims such that claimed limitations have a proper antecedent basis in the specification and are commensurate in scope with the original disclosure. Also, neither cited portions of the specification nor any other portions of the original disclosure recite *"said connection being determined based on an available bandwidth"*. The only portion of the disclosure where bandwidth mentioned is at page 3 lines 5-14 of the specification, as filed. However, this portion discloses that the bandwidth available for the streaming application is determined on the basis of the state of the network; and the bandwidth required for transmitting the stream should match the available bandwidth. Thus, it is apparent that the available bandwidth is determined based on the state of the network,

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in particular, the state of the network connection between sending and receiving devices, and not the other way around, as presently claimed. Furthermore, as claimed, *"an available bandwidth associated with said selected terminal"* is not supported by the original disclosure because the cited portion of the specification discusses that an available bandwidth is associated with said connection, not terminal. It is not apparent how would one associate an available bandwidth with a terminal, especially when the terminal has more than one available connection. In addition, the original disclosure fails to provide an antecedent basis for an access point such that the last random access point is correlated with the access point, as presently claimed.

Applicant's support in the original disclosure for the newly added limitation of: *"said content being formatted in a plurality of encoding rates, said encoding rates associated with a corresponding connection, wherein said random access points are common in each of said formatted content"* is verified and acknowledged.

Regarding the rejection of claims 1, 2, 4-6, 9, 10, and 12-16 under 35 U.S.C. 103(a) as being unpatentable over Lee et al. in view of Hamilton, applicant's arguments have been fully considered but they are not persuasive.

At page 11 of remarks, applicant argues without a reference to any specific claim that: *"Lee fails to teach storing the information necessary to resume a video stream in the server. Nor does Lee teach different content formats being stored in the server having access points that are common among the different content formats"*. This argument is irrelevant because at least claim 1 does not specify that the information is being stored in the server. Thus, applicant argues the unclaimed feature of the

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invention. It is noted that although claims are interpreted in light of the specification, limitations from the specification are not read into the claims. Applicant is advised to specify in at least claim 1 that the information necessary to resume a video stream is stored in the server.

Applicant further argues that: *"neither Lee nor Hamilton teach or suggest that content stored in different encoding rates with access points common among the different content encoding rates or the use of different connections based on different terminals"*. In response to this argument it is noted that at least claim 1 does not specify that *"content is stored in different encoding rates"* (emphasis added). At least claim 1 further does not recite *"use of different connections based on different terminals"*. Applicant is advised to amend the claims by further specifying *the use of different connections based on different terminals* and that *content is stored in different encoding rates*, as argued.

Applicant still further argues that: *"the combination of Lee and Hamilton fails to render obvious the invention claimed in the independent claims for at least failing to teach the terminal having one or more connections and that the resumption of the data stream with any connection available to the user"*. This argument is not persuasive because the limitation of *"one or more connections"* includes having only one connection, such that the data stream is resumed with the same connection, since it is the only connection available to said user. If applicant's intent is to specifically claim that multiple connections are available to said user, applicant is advised to amend the claims accordingly.

Applicant argues at page 12 of remarks that: *"the combination of Lee and Hamilton would create a device that is contrary to the teaching of Lee as Lee explicitly teaches storing information necessary to resume the transmission in the terminal device.....The use of a data base for the storing of similar information is redundant to the Lee disclosure as incorporating a data base to save this information would alter the teaching of Lee to save data on the terminals"*. This argument is not persuasive because storing of similar information in a data base, would supplement storing the information in the terminal device. The fact that such storing might be redundant does not necessarily mean that such combination would alter the teaching of Lee. Since applicant fails to provide a corroborating evidence of that redundantly storing similar information in a data base in addition to storing that information in the terminal device alters the teaching of Lee, applicant's argument cannot be held as persuasive.

At page 13 of remarks, applicant argues that: *"neither Lee nor Hamilton provide any teaching of multiple streams of different encoding rates that may be used for the connection established after resumption of the transmission"*. This argument is directed towards unclaimed features of the invention because none of claims 3, 7 or 11 recite the limitation of *"multiple streams of different encoding rates that may be used for the connection established after resumption of the transmission"*.

As to any arguments not specifically addressed, they are the same as those discussed above.

***Specification***

4. The specification is objected to under 37 CFR 1.75(d)(1) as failing to provide a clear support or antecedent basis in the description for newly presented and amended claims, as discussed below with respect to the written description requirement.

***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 4 and 9-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

As to claim 4, use of the word “device” does not inherently mean that the claim is directed to a machine. Only if at least one of the claimed elements of the device is a physical part of the device can the device as claimed be a machine within the meaning of 35 U.S.C. 101.

In the instant case, the device is hosting a user count manager, which in turn comprises a database of registered users. The specification shows that in at least one embodiment the user count manager is implemented in the form of software. See page 3 line 34 to page 4 line 1. A database of registered users is a structured collection of records, in its plain meaning and in light of the specification. Thus, a claimed user count manager comprising a database of registered users cannot be positively identified as a physical part of the claimed device. Since no other components of the device have been



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claimed, the device of claim 4 is reasonably interpreted as comprising software per se.

Thus, claim 4 is directed to non-statutory subject matter.

As to claim 9, "a content streaming service" is not in one of the statutorily authorized categories of invention. 35 U.S.C. 101 identifies four statutory categories of invention: process, machine, manufacture, and composition of matter.

In order for a claim to qualify as a process, the claim should consist of a series of steps or acts to be performed. Claim 9 fails to identify any steps or acts that are performed as part of the content streaming service. As claimed, "*a content streaming service for streaming a content*" (emphasis added) only identifies intended use of the content streaming service and is not a positively recited step or act being performed. The limitation of "*said content streaming service comprising an option of interrupting*" describes a programmed functionality of the claimed service. Having an option of interrupting a streaming session is not a step or act since no actual interrupting of a streaming session has been positively claimed. Remaining limitations further define what constitutes a content, last random access point, and other elements for use by (emphasis added) the content streaming service. Thus, claim 9 cannot be categorized as a process.

In order for a claim to qualify as a machine, the claim should be directed to parts of a mechanical or electromechanical device or a combination of mechanical or electromechanical devices with some intended function. Claim 9 fails to identify any

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physical parts of device or a combination of physical devices with some intended function to qualify as a system. Thus, claim 9 cannot be categorized as a machine.

In order for a claim to qualify as a manufacture, the claim should be directed to physical articles or objects made by man from raw or prepared materials. Claim 9 fails to identify any physical articles or objects made by man from raw or prepared materials. Thus, claim 9 cannot be categorized as a manufacture.

In order for a claim to qualify as a composition of matter, the claim should be directed to a manmade combination of two or more substances. Claim 9 fails to identify a manmade combination of two or more substances. Thus, claim 9 cannot be categorized as a composition of matter.

Claim 10 would be directed to an appropriate article of manufacture within the meaning of 35 U.S.C. 101 if the computer-readable medium would only be reasonably interpreted by one of ordinary skill in the art as covering embodiments which are articles produced from raw or prepared materials and which are structurally and functionally interconnected to the program in such a manner as to enable the program to act as a computer component and realize its functionality.

In the instant case, since there is no mention of what constitutes "computer-readable medium" in the specification, the "computer-readable medium" as used in the claims would fairly suggest to one of ordinary skill as including signals or other forms of propagation and transmission media, typewritten or handwritten text on paper, or other items failing to be an appropriate manufacture under 35 U.S.C. 101 in the context of

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computer-related inventions. Therefore, claims 10 and 11 are directed to non-statutory subject matter.

As to claim 12, use of the word “server” does not inherently mean that the claim is directed to a machine. Only if at least one of the claimed elements of the server is a physical part of the device or a combination of devices can the server as claimed be a machine within the meaning of 35 U.S.C. 101.

In the instant case, the server is comprising a database and a monitor. The specification fails to provide a proper antecedent basis for “a monitor”. For the purposes of this analysis, claimed “monitor” is interpreted as a user count manager, based on its functionality. Thus, the specification shows that in at least one embodiment the user count manager is implemented in the form of software. See page 3 line 34 to page 4 line 1. A database is a structured collection of records, in its plain meaning and in light of the specification. Thus, neither a user count manager nor a database can be positively identified as a physical part of the claimed service. Since no other components of the server have been claimed, the server of claim 12 is reasonably interpreted as comprising software per se. Thus, claim 12 is directed to non-statutory subject matter. Claims 13-16 are also directed to non-statutory subject matter because these claims fail to introduce at least one physical part of the server of claim 12.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 1-7 and 9-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

In particular, the limitation of *"selecting one of said connections available to said user, wherein said last random access point is correlated with an access point associated with a connection associated with a selected one of said terminals available to said user and said connection being determined based on an available bandwidth associated with said selected terminal"* of independent claim 1 (and analogously independent claims 4, 5, 9, 10, and 12) does not appear to be described in the specification in such a way as to reasonably convey to one of ordinary skill in the art that the inventors, at the time the application was filed, had possession of the claimed invention.

In attempt to provide support in the original disclosure for the previously added subject matter, applicant relies on page 3 lines 11-14 and 26-32, Table 1, page 4 lines 4-11 and 19-21 of the specification, as filed. However, none of the cited portions of the specification can be seen to discuss *"selecting one of said connections"* or *"last random*

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*access point is correlated with an access point" or "connection determined based on an available bandwidth associated with said selected terminal".* In particular, neither cited portions of the specification nor any other portions of the original disclosure recite selecting a terminal or selecting a connection. Specification briefly mentions that any connection available to the user can be utilized to carry out the streaming session. However, there is no mention of what constitutes selecting one of said connections available to the user, as currently claimed. Thus, the original disclosure fails to provide an antecedent basis for the step of selecting a connection or selecting a terminal. Applicant is advised to amend the claims such that claimed limitations have a proper antecedent basis in the specification and are commensurate in scope with the original disclosure. Also, neither cited portions of the specification nor any other portions of the original disclosure recite *"said connection being determined based on an available bandwidth"*. The only portion of the disclosure where bandwidth mentioned is at page 3 lines 5-14 of the specification, as filed. However, this portion discloses that the bandwidth available for the streaming application is determined on the basis of the state of the network; and the bandwidth required for transmitting the stream should match the available bandwidth. Thus, it is apparent that the available bandwidth is determined based on the state of the network, in particular, the state of the network connection between sending and receiving devices, and not the other way around, as presently claimed. Furthermore, as claimed, *"an available bandwidth associated with said selected terminal"* is not supported by the original disclosure because the cited portion of the specification discusses that an available bandwidth is associated with said

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connection, not terminal. It is not apparent how would one associate an available bandwidth with a terminal, especially when the terminal has more than one available connection. In addition, the original disclosure fails to provide an antecedent basis for an access point such that the last random access point is correlated with the access point, as presently claimed.

As a result, independent claims 1, 4, 5, 9, 10, and 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

Claims 2, 3, 6, 7, 11, and 13-16 are rejected under 35 U.S.C. 112, first paragraph for the same reasons, as these claims are dependent from corresponding independent claims.

Applicants are further requested to provide support in the original disclosure for the subject matter of dependent claims 14-16, which were added subsequently during the course of prosecution of the above-named application and which fail to comply with the written description requirement. In particular, the support pertaining to the claimed feature of associating parameters with a particular terminal, is required in order to overcome the rejection.

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 1-7 and 9-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claims 1-7 and 9-11, the limitation of "*said random access points are common in each of said formatted content*" (emphasis added) at line 5 is ambiguous because recitation of "*common in each*" refers to multiple entities, wherein a single content is being claimed. In particular, as claimed "*said content being formatted in a plurality of encoding rates*" does not inherently mean that such formatting results in multiple versions of said content, each version being formatted in a corresponding encoding rate, as discussed in the specification at page 4 lines 17-27 and Table 1. Applicant is advised to amend each of independent claims 1, 4, 5, 9, and 10 to specify that such formatting of said content results in multiple versions of said content, each version being formatted in a corresponding encoding rate. Such amendment would provide clarity and precision. For the purposes of examination, the limitation of "*said content being formatted in a plurality of encoding rates*" is interpreted as "*said content being formatted in one of a plurality of encoding rates*" (emphasis added) .

As to claims 4, 5, 9, and 10, it is unclear where the preamble of the claim ends and body of the claim begins. Appropriate correction is required.

As to claims 1, 4, 5, 9, and 10, it is unclear which random access point is the "last" random access point. Since the claim specifies that a content comprises "several random access point", the "last random access point" could be the (absolutely) last of those several random access points, when these access points are organized in some particular order. In such embodiment, storing an indication of a last random access

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point in response to interruption of a streaming session is completely useless because such an indication will not allow the resumption of the interrupted streaming session from where it was interrupted. Applicants are advised to amend the claim by further specifying as to what constitutes a "last random access point".

Claim 1 recites the limitation *"wherein said last random access point is correlated with an access point associated with a connection associated with a selected one of said terminals available to said user"*. It is unclear as to what is being meant to the extent that it is impossible to properly interpret the claimed limitation. For the purposes of examination, this limitation is interpreted as best understood. Claims 4, 5, 9, and 10 recite analogous limitation which is ambiguous for the same reasons.

Claim 1 recites the limitation *"said connection being determined based on an available bandwidth associated with said selected terminal"*. It is unclear as to what is being meant to the extent that it is impossible to properly interpret the claimed limitation. For the purposes of examination, this limitation is interpreted as best understood. Claims 4, 5, 9, 10, and 12 recite analogous limitation which is ambiguous for the same reasons.

Claim 12 recites the limitation *"wherein said most recent random access point is correlated with an access point associated with said second terminal through a plurality of access points that are common among different content formats"*. It is unclear as to



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what is being meant to the extent that it is impossible to properly interpret the claimed limitation. For the purposes of examination, this limitation is interpreted as best understood.

As to claim 13, it is unclear which element of the server is *“including the source of streaming content material”*. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claims 1, 2, 4-6, 9-10, 12-14, and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Hamilton (US 2003/0139980 A1).

As to claim 1, Hamilton shows:

a network [cable television network (50)] (Fig. 1),

a server [media server (46)] (par. [0035], Fig. 2) for streaming a content comprising several random access points [playing positions] (CURRENT\_POSITION (308d)) (Fig. 3), said content being formatted in a plurality of encoding rates [each content is formatted in one of a plurality of bit rates] (par. [0060], par. [0079] lines 13-16,

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Fig. 3 element (314d)), said encoding rates associated with a corresponding connection [each RF channel of each connection utilizes a particular operative transmission bit rate (316c) (BIT\_RATE), wherein the specific encoding rate of each content is associated with a specific RF channel based on matched bit rates] (par. [0059], [0079]), wherein said random access points are common in each of said formatted content [each of multiple contents encoded with specific bit rates has several playing positions] (par. [0060]);

a user count manager [media server proxy (34) having application software (42)] (Fig. 2), said user count manager comprising a database of registered users [resource manager database (62)] (Fig. 2),

each registered user having one or more terminals [each customer having one or more media receivers (52)] (Fig. 2, par. [0042]) with one or more connections to said network [each media receiver having at least one connection to said network (50)] (Fig. 2) for carrying out a streaming session with said server (par. [0042]),

said database storing user identification data [customer table (300)] (par. [0054]), said user count manager being designed so that, when a streaming session is interrupted (par. [0090]), an indication of the streamed content and of a last random access point in the streamed content is stored in said database together with the user identification data (par. [0061], [0090]), so as to allow the resumption of the interrupted streaming session from said last random access point (par. [0090]) by selecting one of said connections available to said user [utilizing the connection connecting media receiver with the distribution network (50)] (par. [0027]), wherein said last random

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access point is correlated with an access point associated with a connection associated with a selected one of said terminals available to said user [last played position is correlated with the current playing position at which to resume the streaming; connection is, in turn associated with a selected one of said media receivers] (par. [0090], Fig. 7) and said connection being determined based on an available bandwidth associated with said selected terminal (par. [0052], [0078]).

As to claim 2, Hamilton shows that said database further stores user connection data [node table (306)] (Fig. 3) comprising an identification of each connection available to said user [identification of the distribution node (76) associated with the customer] (par. [0078]), and for each available connection [with the distribution node (76) of the network (50)], an indication of an initial sending rate to be used for streaming a content toward said user via said connection [an indication of the channel's bit rate] (par. [0079]).

As to claim 4, Hamilton shows:

a user count manager [media server proxy (34) having application software (42)] (Fig. 2) comprising a database of registered users [resource manager database (62)] (Fig. 2),

said registered user having one or more terminals [each customer having one or more media receivers (52)] (Fig. 2, par. [0042]) with one or more connections to a network [cable television network (50)] (Fig. 1) [each media receiver having at least one

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connection to said network (50)] (Fig. 2) for carrying out a streaming session with a server [media server (46)] (par. [0035], Fig. 2) (par. [0042]), said server including content formatted in a plurality of encoding rates [each content is formatted in one of a plurality of bit rates] (par. [0060], par. [0079] lines 13-16, Fig. 3 element (314d)), said encoding rates associated with a corresponding connection [each RF channel of each connection utilizes a particular operative transmission bit rate (316c) (BIT\_RATE), wherein the specific encoding rate of each content is associated with a specific RF channel based on matched bit rates] (par. [0059], [0079]), wherein random access points [playing positions] (CURRENT\_POSITION (308d)) (Fig. 3) in each of said formatted content are common [each of multiple contents encoded with specific bit rates has several playing positions] (par. [0060]);

said database being intended for storing user identification data [customer table (300)] (par. [0054]), and

said user count manager being designed so that, when a streaming session is interrupted (par. [0090]), an indication of the streamed content and of a last random access point in the streamed content is stored in said database together with said user identification data (par. [0061], [0090]), so as to allow the resumption of the interrupted streaming session from said last random access point (par. [0090]) by selecting one of said connections available to said user [utilizing the connection connecting media receiver with the distribution network (50)] (par. [0027]), wherein said last random access point is correlated with an access point associated with the selected one of the connections available to said user [last played position is correlated with the current

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playing position at which to resume the streaming; connection is, in turn associated with a selected one of said media receivers] (par. [0090], Fig. 7), said connection being determined based on an available bandwidth associated with a selected one of said terminals (par. [0052], [0078]).

As to claim 5, Hamilton shows:

streaming a content comprising several random access points [playing positions] (CURRENT\_POSITION (308d)) (Fig. 3) via a network [cable television network (50)] (Fig. 1) to registered users for which user identification data are stored in a database [resource manager database (62)] (Fig. 2), said content being formatted in a plurality of encoding rates [each content is formatted in one of a plurality of bit rates] (par. [0060], par. [0079] lines 13-16, Fig. 3 element (314d)), said encoding rates associated with a corresponding connection [each RF channel of each connection utilizes a particular operative transmission bit rate (316c) (BIT\_RATE)], wherein the specific encoding rate of each content is associated with a specific RF channel based on matched bit rates] (par. [0059], [0079]), wherein said random access points are common in each of said formatted content [each of multiple contents encoded with specific bit rates has several playing positions] (par. [0060]); said registered users having one or more terminals [each customer having one or more media receivers (52)] (Fig. 2, par. [0042]) with one or more connections to said network [each media receiver having at least one connection to said network (50)] (Fig. 2), said streaming method comprising the step of storing in said database, with said user identification data [customer table (300)] (par.

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[0054]), when a content streaming session is interrupted (par. [0090]), an indication of the streamed content and of a last random access point in the streamed content (par. [0061], [0090]), so as to allow the resumption of the interrupted streaming session from said last random access point (par. [0090]), wherein said last random access point is correlated with an access point associated with one of said connections available to said user [last played position is correlated with the current playing position at which to resume the streaming; connection is, in turn associated with a selected one of said media receivers] (par. [0090], Fig. 7), said connection being determined based on an available bandwidth associated with a selected one of said terminals (par. [0052], [0078]).

As to claim 6, Hamilton shows all the elements, as discussed per claim 2 above.

As to claim 9, Hamilton shows all the elements, as discussed with respect to claim 1, and analogously claims 4 and 5. Therefore, claim 9 is rejected for the same reasons.

As to claim 10, Hamilton shows all the elements, as discussed with respect to claim 1, and analogously claims 4 and 5. Therefore, claim 10 is rejected for the same reasons.

As to claim 12, Hamilton shows a server [media server proxy (34)] (par. [0037], Fig. 2) comprising:

a database that is configured to enable storage of a plurality of identifications of terminals associated with each of one or more users [resource manager database (62) having customer table (300)] (par. [0054], Fig. 2), and

a monitor [application software (42) of media server proxy (34)] (Fig. 2) that is configured to monitor communications between a first terminal [media receiver (52)] associated with a user and a source of streaming content material [media server (46)], and to record an identification of a most recent access point [playing position] (CURRENT\_POSITION (308d)) (Fig. 3) of the content material communicated to the first terminal (par. [0061]),

wherein, upon an interruption of the communication with the first terminal (par. [0090]), the server is configured to enable the resumption of transmission from a most recent random access point to a second terminal associated with the user [another media receiver associated with the customer's account] (par. [0090]), wherein said most recent random access point is correlated with an access point associated with said second terminal through a plurality of access points that are common among different content formats [last played position is correlated with the current playing position at which to resume the streaming; connection is, in turn associated with a selected one of said media receivers] (par. [0090], Fig. 7) and said connection being determined based on an available bandwidth associated with said second terminal (par. [0052], [0078]).

As to claim 13, Hamilton shows that the media server (46) is including the content of streaming content material (par. [0035], Fig. 2).

As to claim 14, Hamilton shows that the database includes an initial set of one or more communication parameters associated with each terminal [an indication of the channel's bit rate] (par. [0079]), and the server is configured to resume transmission based on the initial set of parameters associated with the second terminal (par. [0082]).

As to claim 16, Hamilton shows that the initial set of parameters includes an identification of an appropriate communication speed [bit rate] associated with each terminal [each connection of each terminal] (par. [0052], [0078]-[0079]).

### ***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 3, 7, 11, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamilton in view of Sitaraman et al. (US 2006/0179154 A1).

As to claim 3, Hamilton shows that a version initially used when resuming a streaming session toward a user via a certain connection is the version whose encoding



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rate best matches the initial sending rate to be used for said connection (par. [0052], [0061], [0079], [0091]).

Hamilton does not show that said server has access to several encoded versions of said content, each version having a specific encoding rate.

Sitaraman shows that a server has access to several encoded versions of said content [multiple interleaved encodings of multi-bitrate media] each version having a specific encoding rate [each version having different bitrate] (par. [0058]).

It would have been obvious to one of ordinary skill in the art at the time of the invention modify the system of Hamilton by having several encoded versions of said content, each version having a specific encoding rate and grading said server access to said several encoded versions of said content in order to allow the server to step down from a higher-bitrate encoding to a lower-bitrate encoding, effectively thinning the media when the network degrades (par. [0058] in Sitaraman).

As to claim 7, Hamilton in view of Sitaraman shows all the elements, as discussed per claim 3 above.

As to claim 11, Hamilton shows that the database stores user connection data [node table (306)] (Fig. 3) that includes an identification of each connection available to said user [identification of the distribution node (76) associated with the customer] (par. [0078]), and for each available connection [with the distribution node (76) of the network

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(50)], an indication of an initial sending rate to be used for streaming a content toward said user via the connection [an indication of the channel's bit rate] (par. [0079]), and

the a version initially used when resuming a streaming session toward a user via a given connection is the version whose encoding rate best matches the initial sending rate to be used for the connection (par. [0052], [0061], [0079], [0091]).

Hamilton does not show that several encoded versions of the content are available, each version having a specific encoding rate.

Sitaraman shows that a server has access to several encoded versions of said content [multiple interleaved encodings of multi-bitrate media] each version having a specific encoding rate [each version having different bitrate] (par. [0058]).

It would have been obvious to one of ordinary skill in the art at the time of the invention modify the computer program of Hamilton by having several encoded versions of said content, each version having a specific encoding rate and grading said server access to said several encoded versions of said content in order to allow the server to step down from a higher-bitrate encoding to a lower-bitrate encoding, effectively thinning the media when the network degrades (par. [0058] in Sitaraman).

As to claim 15, Hamilton shows that the initial set of parameters includes an identification of an appropriate version associated with each terminal [the channel's bit rate for the connection established is matched with the bit rate of the selected content] (par. [0079]).

Hamilton does not show that the source of streaming content material includes a plurality of versions of the streaming content material.

Sitaraman shows that a server has access to several encoded versions of said content [multiple interleaved encodings of multi-bitrate media] each version having a specific encoding rate [each version having different bitrate] (par. [0058]).

It would have been obvious to one of ordinary skill in the art at the time of the invention modify the server of Hamilton by having the source of streaming content material include a plurality of versions of the streaming content material in order to allow the server to step down from a higher-bitrate encoding to a lower-bitrate encoding, effectively thinning the media when the network degrades (par. [0058] in Sitaraman).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLEG SURVILLO whose telephone number is (571)272-9691. The examiner can normally be reached on M-Th 8:30am - 6:00pm; F 8:30am - 5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on 571-272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Examiner: Oleg Survillo

Phone: 571-272-9691

/Andrew Caldwell/

Supervisory Patent Examiner, Art  
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